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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,934	10/19/2000	Henry Edward Pfeiffer	964-4	5671

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BLACKWELL SANDERS PEPER MARTIN LLP
40 CORPORATE WOODS
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EXAMINER

SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 06/12/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/691,934

Applicant(s)

PFEIFFER, HENRY EDWARD

Examiner

M. SAFAVI

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3 & 4</u> . | 6) <input type="checkbox"/> Other: _____ |

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Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3, lines 8-9, how, particularly, do the ties extend between "either opposing panel"? Or, should lines 8-9 of claim 3 recite ---...positioned transverse to and between said opposing panels--? Otherwise, how would a tie be between only one panel?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

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4. Claims 3-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Cymbala et al. Cymbala et al. shows, Figs. 1-3, pair of opposing foam panels 2 having a plurality of ties 3 extending therebetween with opposing flange members 4 embedded or encapsulated within respective opposing foam panels. A web 5 formed of spaced, parallel bridge members which possess outwardly extending rebar-retaining seats positioned therealong separates the opposing pair of flange members. Engaging means in the form of alternating teeth and sockets is formed along the upper and lower edges as at 26, 27. Second engaging means is formed along the side edges as at 20, 21. The second engaging means including an array of alternating teeth and sockets, (or tongues and grooves). Corner block can be seen in Fig. 4.

5. Claims 3-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Mensen. Mensen shows, Figs. 1, 3, 4, 5, and 7, pair of opposing foam panels 12, 14 having a plurality of ties 42 extending therebetween with opposing flange members 44, 46 embedded or encapsulated within respective opposing foam panels. A web formed of spaced, parallel bridge members 48, 50 which possess outwardly extending rebar-retaining seats 76 positioned therealong separates the opposing pair of flange members. Engaging means in the form of alternating teeth and sockets is formed along the upper and lower edges as described at lines 1-10 in col. 4. Second engaging means is formed along the side edges as at 38 and can be seen in Fig. 1 along the side edges in the form of alternating teeth and socket, (or tongue and groove), formations. Corner block can be seen in Fig. 3.

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6. Claims 3-5 and 8-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Beliveau. Beliveau shows, Figs. 1 and 3, pair of opposing foam panels 14a, 14b having a plurality of ties 16 extending therebetween with opposing flange members 20a, 20b embedded or encapsulated within respective opposing foam panels. A web 32 formed of spaced, parallel bridge members 44 which possess outwardly extending rebar-retaining seats positioned therealong separates the opposing pair of flange members. Engaging means in the form of alternating teeth and sockets 18, 19 is formed along the upper and lower edges.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beliveau in view of Horobin '382 or Mensen '459.

Each of Horobin '382 and Mensen '459 teach formation of engaging means in the form of alternating teeth and sockets, as at 20, 22 of Horobin '382 and 38 of Mensen '459, formed along the side edges of respective panel members. To have provided the Beliveau panel members with engaging means in the form of alternating teeth and sockets formed along the side edges, thus providing a more secure assembly of panel members in an edge to edge relationship, would have


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constituted an obvious expedient to one of ordinary skill in the art at the time the invention was made as taught by either of Horobin '382 or Mensen '459.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beliveau in view of either of Mensen '459 or Cymbala et al. '714.

Each of Mensen '459 and Cymbala '714 teach formation of a corner block concrete form including opposing foam panels having rectangular segments in angular relation to each other, Fig. 3 of Mensen '459 and Fig. 4 of Cymbala et al. '714. To have provided the Beliveau form assembly with any number of corner block concrete forms, thus allowing easy formation of a corner assembly, would have constituted an obvious expedient to one of ordinary skill in the art at the time the invention was made as taught by either of Mensen '459 or Cymbala et al. '714.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2168.



MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354

M. Safavi
June 11, 2002